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Minutes of the Commission Meeting Held on January 11, 2007 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	P Ned Orleans (A – Tisbury)
P John Breckenridge (A – Oak Bluffs)	P Jim Powell (A – West Tisbury)
P Christina Brown (E - Edgartown)	P Doug Sederholm (E – Chilmark) - Chair
P Peter Cabana (E - Tisbury)	P Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
P Mark Morris (A – Edgartown)	P Richard Toole (E – Oak Bluffs)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner) Paul Foley (DRI Coordinator), Bill Wilcox (Water Planner), Christine Flynn (Affordable Housing & Economic Planner)

The meeting was called to order at 7:49 p.m.

Doug Sederholm welcomed new Commissioners, Susan Shea and Peter Cabana, and returning Commissioner Richard Toole. He appointed Christina Brown who has agreed to chair LUPC for one more year.

1. BALANCE RESTAURANT: DRI NO. 309M – CONCURRENCE REVIEW

Commissioners present: J. Athearn, J. Breckenridge, C. Brown P. Cabana, M. Davisson, M. Morris, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole, A. Woodruff

For the applicant: Herb Putnam, Benjamin deForest, Stacey Riley, Mark Wallace, Mike Wallace

Paul Foley gave the staff report.

- The owner is Cvivor LLC. The site is at 9 Oak Bluffs Avenue, and would occupy half of the ground floor, about 3,400 square feet. The proposal is for a 90-seat restaurant, with a 150-seat function facility in the shoulder season.
- The Zoning is B-1 commercial.
- The local permits needed are a building permit, a parking permit, a liquor license and wastewater approval.
- The building has been the site of bars, restaurants, dance halls, game rooms, among other things in the past. The part of the building that Balance Restaurant proposes to go into is

presently a t-shirt shop. The other half of the ground floor is a car and moped rental. The upstairs was the Game Room until last year.

- Balance Restaurant was located in the Oyster Bar building (57 Circuit) for seven years, until a year or so ago.
- The owners have met with the Cottage City Historical District and the Oak Bluffs Historical Commission.
- The project was referred by the Oak Bluffs building inspector under the triggers 3.102 b - "Once a DRI always a DRI..." and 3.109d – A public restaurant in a duly established B-1 Zoning District which is designed or proposes to accommodate 50 or more...
- The majority of LUPC members voted to recommend that the Commission not concur with the referral for DRI review.
- The main issues are traffic and parking; can downtown accommodate a 90-seat restaurant/function facility.
- Noise could be an issue but the building is constructed out of 14" poured concrete. A vestibule in front will help prevent noise from spilling out in front and only management will use the proposed rear exit.
- Trash pick-up will be at about 10 a.m., scheduled with the neighbors. Bottles will not be dumped at night.
- Deliveries will take place at the rear of the building.
- A hook-up to town sewer has been approved with the flow of a 150-seat restaurant
- The restaurant will need 35 parking spaces according to the Planning Board. They will be credited for 18 spaces; they either need to provide 17 spaces or pay the Oak Bluffs parking mitigation fund \$1450 per year.
- The applicants have said they will have 10 in-town parking spaces through Budget Rental, they will give employees VTA passes, and will contract with a taxi company to ferry employees from a parking hub. They will elaborate on this in their presentation.
- The proposal doesn't trigger the affordable housing mitigation.
- The restaurant will mainly employ Islanders because they will be opening in April. The owners have discussed using students from Johnson and Whales, the Culinary Institute of America and the High School Culinary Arts program. 25% of the seasonal employees will be hired through Workforce Development Training.
- A nine-month restaurant would presumably be more beneficial to the town economy than a three-month t-shirt shop.
- The proposed restaurant is an approved land use within the B-1 Business District.
- The applicants are improving the façade of the entire building and making it A.D.A. accessible.
- Correspondence has been received from the Historical Commission, the Oak Bluffs Health Agent, and the Building inspector, all in favor of the project.
- The restaurant has been issued a seasonal all-liquor license that runs from April 1 to January 1.
- Renee Balter wrote a letter discussing traffic and parking issues.

1.2 APPLICANTS' PRESENTATION

Herb Putnam presented information on the application.

- The restaurant is located on Oak Bluffs Avenue, across from the Flying Horses.
- The applicants have met with town boards. They have decided to follow the suggestions of the historical commission and bring the building back to reflect its history.

- The inside double door will contain noise within the establishment.
- The restaurant will have 90 seats for the entire year with the ability to turn into a 150-seat function room in the off-season.
- The applicants have met with the Oak Bluffs Board of Education, which is meeting to discuss the restaurant's parking proposal. The restaurant is asking for 12 employee spaces at the elementary school and employees would be transported by hired contract taxi. Additionally, the restaurant is proposing a marketing idea whereby patrons using MV Taxi will receive a complementary tasting dessert course
- They're doing everything they can to provide parking for their restaurant.

Herb Putnam answered Commissioners' questions:

- No functions will be held in July and August. Parking and traffic doesn't escalate in town until the end of June.
 - Hours of operation will be 4:30 p.m. to 11:00 p.m. It will not be a lunch operation.
 - The applicants' intention is to make the parking proposal a definitive part of their project.
- Mark London** suggested including the main features of the parking proposal in the decision.
- Balance will be in the bottom quarter of the building. Jim Ryan owns the upstairs and they don't know what will be upstairs.
 - The Oak Bluffs sidewalk upgrade won't be done until fall of 2007. When the restaurant puts in the A.D.A. ramp, they'll work with the town and make sure there's a proper segue.
 - The front of the building is a curb cut and couldn't accommodate parking.
 - During a function, the restaurant will utilize the taxi service from the Oak Bluffs School and shuttles from hotels. The plan is to eliminate the need for parking for 100 people. The cost of shuttle service would be part of the cost of the function to be paid by the host.
 - **Ben deForest** said it's easy to fill restaurants in July and August. The applicants are serious from an operational standpoint to have functions on the shoulder season for revenue for the town and restaurant.

1.3 Commissioners' Discussion

Christina Brown said some LUPC members thought the project might have regional impact because of traffic and parking. Since the LUPC review, Balance has added parking suggestions.

John Breckenridge wanted to make the general comment supporting the creative approaches to parking that will be very beneficial to town. The Commission and Oak Bluffs can learn and grow from the parking proposals and the traffic situation will benefit.

John Breckenridge moved, and it was duly seconded, to not concur with the referral.

John Breckenridge added that the applicant has made extraordinary efforts to recognize and deal with Commission concerns and, as a resident of Oak Bluffs, he welcomed the applicants to their new site.

Doug Sederholm clarified that to not concur means that Commissioners find that there is not sufficient regional impact to further review the project as a DRI.

Several Commissioners clarified that the decision not to concur would be registered with the deed; however, it would not be a permanent restriction on the property and would relate only to the operation of Balance Restaurant. It would specify that the decision not to concur with the referral was subject to

the restaurant providing 0 off-street spaces and 12 additional spaces outside of the downtown area. If the parking arrangement is changed, the Town could refer the project back to the Commission.

Jim Powell noted that a positive economic impact is the use of High School students from the Culinary Arts program, which helps to stabilize the programs. He hopes other restaurants might follow the initiative.

Linda Sibley said she understands the concerns about traffic and parking, but Oak Bluffs is the only major downtown you can actually drive through; roads are wide enough and traffic flows well in general.

Mark Morris moved the question.

A roll call vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown P. Cabana, M. Davisson, M. Morris, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Mimi Davisson suggested inviting an Oak Bluffs representative to come before the Commission to discuss the town's plans for parking.

2. HIGH SCHOOL AREA PLAN

Mark London presented an overview on a proposed reorganization of the area across the road from the high school.

- Because the YMCA will be part of the area, he suggested that Commissioners avoid prejudging the Y proposal, which will come before the Commission as a DRI later this year.
- The area studied is across the street from the High School.
- The participants in the process were all the institutions in the area, including the Arena, the Y, Community Services, The High School, The V.T.A., and the Land Bank.
- Existing uses, parking and acreage were listed, as well as possible future uses.
- During a Community Planning Forum, 30 – 40 people worked in teams to do a first concept plan of the area across from the High School, focused primarily on site organization, buildings, and vehicular and pedestrian access. A steering committee was then formed to work with the concept plans and create a cohesive whole for the area.
- Goals were to
 - create a cohesive whole,
 - make the area pedestrian friendly with strong and safe links between the activities,
 - accommodate bikes,
 - facilitate public transit,
 - favor shared parking areas,
 - minimize the impact of roads and curb cuts,
 - examine effective wastewater treatment, including maximizing nitrogen reduction.
- The general elements of the current concept plan bring the Y closer to Edgartown- Vineyard Haven Road and to the Arena to create a cluster.
- The Arena and Y will have both exclusive and shared parking.
- A green buffer will be created along the road.
- Educational facilities will stay on the south side of the road, recreational on the north.

- The organizational concept is to create a central outdoor space, which relates to the Arena, the Y, the skate park, community services, and the High School.
- A main pedestrian route links the Arena and Y with the neighborhood.
- The primary accesses will be the existing Community Services Road and the curb cut at the Arena, which may be moved. It is proposed to create another road on the other side of the Arena in the future that could serve all the activities in that area including the future housing.
- The parking and traffic layout has an internal road that cuts across, with most of the parking accessed from the larger roads on the periphery.
- Benefits for each of the three major users are listed in the report and focus on easy access, parking, and consolidation of land for future use.

Priscilla Silvia presented the plan to the High School Land Use Committee and she said the full regional School Committee voted to accept this as the best use of the land. The Y was asked to make a specific five-acre plan.

Mark London said that Stephanie Mashek, Paul Foley, and Sam Sherman did a lot of the work on the plan.

There was a discussion of housing.

- **Jim Athearn** asked if there was any plan for a village type center with any plan for cluster and closely-spaced housing.
- **Priscilla Silvia** said there was some discussion of the 32-acre resident homesite lot but that's within the purview of Oak Bluffs. The high school doesn't have any plan for community housing in this area. The high school property can only be used for educational uses. The Arena and Y can be considered to be used as part of the overall function of education and exchange services with the High School.
- **Mark London** said the Y may be planning some housing and noted that there would be a café at the Y. There was some discussion about whether this should be seen as a new village center or campus; the proposed plan has more of a campus concept.
- **Richard Toole** asked whether the shortage of housing for teachers is being considered.
- **Priscilla Silvia** said they have considered housing for teachers but it isn't under consideration at this time.
- **Jim Powell** asked if there would be time taken to discuss housing for teachers, such as the type Nantucket is building.
- **Priscilla Silvia** said it's an entirely different topic from what they were examining.
- **Paul Foley** said the topic was raised at the charrette.
- **Priscilla Silvia** explained that the 25-acre parcel of which this is a part was taken by eminent domain but it can only be used for educational purposes.

There was a discussion of wastewater.

- **Mimi Davisson** asked whether the spatial arrangement would accommodate either Title 5 or a package treatment plant.
- **Mark London** said they are trying to see if a district wastewater treatment plan could be set up. They are getting more engineering and cost information. The principle would be that if it were built, the Y could contribute whatever the cost of a Title 5 system would have been.
- **John Breckenridge** said he believes that Y has made plans for their own treatment system, but no plans are final.
- **Susan Shea** asked about nitrogen reduction.

- **Mark London** said a package treatment system would remove 90% or more of the nitrogen whereas a Title 5 system with de-nitrification might remove 40%. The Lagoon Pond Watershed is the primary watershed that would be impacted. The first tie-ins to a system would probably be the Y and High School with the capacity for add-ons of the Arena, Community Services, and housing.

Commissioners discussed details of the parking and traffic designs, pedestrian access, VTA access, and activities at the institutions. A pedestrian underpass is not planned but plans should accommodate the possibility in the future.

3. INTERIM DRAFT WATER QUALITY POLICY

Doug Sederholm explained that this draft of the Water Quality Policy eliminates some of the fuzziness of the prior draft.

- The Commission is now on the cusp of getting the first of the Island's great ponds through the Mass Estuaries Project. (A great pond is over ten acres.)
- The Commission has been coordinating the funding and gathering of information and has used that information to assist the towns to qualify to have coastal ponds participate in the Estuaries Project.
- The Estuaries Project will create models to help determine nitrogen-loading limits for the water body involved. It is a powerful tool to help address in a more specific way how to deal with nitrogen loading in a pond.
- There are a lot of potential estuaries in the project. The study period for Edgartown Great Pond is being completed and there will be a report within six months. Some Martha's Vineyard ponds are in real trouble. Lagoon Pond gets in trouble every summer; dipping below a good water quality level for shell and finfish life.
- These draft guidelines are not the last word, but it represents progress achieved through an incredible amount of work by Bill Wilcox.

Bill Wilcox explained the policy.

- The primary component of the policy is the nitrogen issue; subsequent issues may be erosion and stormwater.
- There is clear and conclusive proof that all of the coastal ponds are limited by nitrogen, which is required for growth of plant material. The nitrogen tipping point appears to be when the eelgrass dies. Ponds are under stress from the addition of nitrogen from their watersheds and from acid rain.
- Nitrogen concentrations depend on the amount being added from the watershed and the amount of tidal flow. The Estuaries Project uses sophisticated tools to determine nitrogen limits based on tidal flow, volume of the pond, and the desired water quality goal. Each pond has its own unique behavior.
- He explained some of the data and formulas in the policy. Commissioners discussed eelgrass, dredging, the Buzzard's Bay Project approach to setting nitrogen limits, and Title 5 nitrogen.
- Water quality people are starting to propose the placement of denitrification systems on the Island. The Mass Estuaries Project will give nitrogen-loading limits for ponds.
- The Island Plan Water Resource Core Group is beginning to look at things the Island can start doing now and how different solutions to the nitrogen problem can be financed. It may not be the most cost-effective thing to have a house put in a denitrification system. It might be better to

take the equivalent amount of money from a number of individual projects and use it on a bigger project for more effect.

- They are starting to think about the most cost-effective interventions. In the interim, how does the Commission treat DRIs between now and then?

Kathy Newman thanked Bill Wilcox for his work and explanation.

Chris Murphy commended Bill Wilcox on his work. He expressed concern about community reaction to nitrogen-loading limits and suggested that we need advocates, such as the Selectmen in each of the towns, to say the ponds are really important. The best success is if the community embraces it. It would be best if Selectmen make this their issue that the Commission helps them with. He then asked if there's any other limiting factor in the ponds.

Bill Wilcox said phosphorus is the limiting factor in fresh water; the south shore great ponds might get fresh enough at times so phosphorus might be a limiting nutrient. But the data says its nitrogen, not phosphorus or silicate that is most critical.

Christina Brown commented that the guidelines can't necessarily be boiled down to one page and simplified. Commissioners will review the policy and discuss it at the next meeting.

4. OTHER

4.1 Cape Light Compact

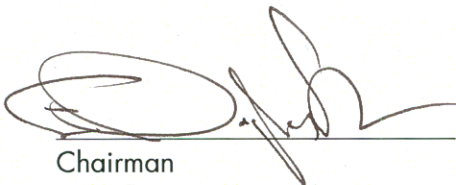
At Peter Cabana's suggestion, the Commission agreed to invite a representative to Cape Light Compact to present their review process to the Commission. He will contact Maggie Downing.

4.2 DRI Policies

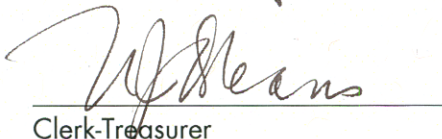
Mark London gave an update on the drafting of DRI policies, aimed at gradually putting on paper what the Commission's practice is.

- The Open Space Policy has been finalized and adopted.
- The Water Quality Policy has now been submitted to the Commission in draft form.
- He suggested that Transportation and Energy should be next.

The meeting adjourned at 10:00 p.m.


Chairman

3-8-07
Date


Clerk-Treasurer

3-8-07
Date